

THE EFFECTIVE DATE OF THIS ORDINANCE IS APRIL 27, 2007

ORDINANCE # 07-10-450

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS FOR  
FREDERICK COUNTY, MARYLAND TO AMEND AND REVISE §1-20-13(A) OF  
THE ADEQUATE PUBLIC FACILITIES ORDINANCE

§1. Definitions. – In this Ordinance, the following terms shall have the meanings indicated:

“APFO” shall mean the County’s Adequate Public Facilities Ordinance, codified as Chapter 1-20 of the Code.

“BOCC” shall mean the Board of County Commissioners of Frederick County, Maryland

“Code” shall mean the Frederick County Code, 2004.

“Development” shall have the meaning set forth in APFO §1-20-5(B).

“MXD” shall have the meaning set forth in APFO §1-20-5(B).

“Planning Commission” shall mean the Frederick County Planning Commission.

“Planning & Zoning Department” shall have the meaning set forth in APFO §1-20-5(B).

“Planned Unit Development” shall have the meaning set forth in APFO §1-20-5(B).

“PUD” shall mean a Planned Unit Development.

“Qualifying PUD” shall have the meaning set forth in APFO §1-20-13(A).

“State Rated Capacity” shall have the meaning set forth in APFO §1-20-5(B).

§2. Background. – On April 5, 2006, the BOCC adopted Ordinance #06-08-404 to enact §1-20-13 to provide an alternate method for meeting school adequacy requirements for qualifying PUDs. The BOCC desires to require that the projected enrollment of each school serving a qualifying PUD must be less than one hundred percent (100%) of state-rated capacity during the entire APFO approval period. The BOCC believes that this amendment to §1-20-13 will be in the best interest of the citizens of the county and consistent with the general intent of the APFO.

Ordinance #06-08-404 was initiated by Land Stewards, LC (“Land Stewards”), a Virginia limited liability company and the current developer of the Lake Linganore PUD.

Ordinance #06-08-404 had the effect of exempting Land Stewards from the one hundred percent (100%) school adequacy requirement set forth in APFO §1-20-61(C). The BOCC believes the better policy is to require all developments subject to the school APFO to meet the 100% school adequacy requirement. The BOCC intends for this Comment to be a useful aid in the interpretation and construction of this Ordinance.

**§3. Procedural Requirements.** - The BOCC initiated this Ordinance on December 7, 2006. Pursuant to APFO §1-20-23(B), this Ordinance was filed with the Planning & Zoning Department and referred to all municipalities within the County having adequate public facilities ordinances for review and comment. The Planning Commission held a public hearing on this proposed Ordinance on March 21, 2007. The BOCC held a public hearing on this proposed Ordinance on April 17, 2007. Pursuant to APFO §1-20-23 (C), notice of the time and place of the BOCC public hearing, together with a summary of the proposed Ordinance, were published in at least one (1) newspaper of general circulation in the county once each week for two (2) successive weeks, with the first (1<sup>st</sup>) such publication appearing at least fourteen (14) days prior to the BOCC public hearing.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOCC THAT:

**§4. Revisions & Amendment of APFO §1-20-13(A).** - APFO §1-20-13(A) is amended and revised as follows:

"(A) For purposes of this section only, adequate school capacity shall mean the funding or provision of school capacity in amounts to be determined by the Board of Education, and approved by the Planning Commission, for each school serving the qualifying PUD after consideration of current enrollments and capacities of each school serving the qualifying PUD, students generated by the qualifying PUD, potential enrollment growth from other residential development, and other factors as determined by the Board of Education that may impact school enrollment, PROVIDED THAT THE PROJECTED ENROLLMENT OF EACH SCHOOL SERVING A QUALIFYING PUD MUST BE LESS THAN ONE HUNDRED PERCENT (100%) OF STATE-RATED CAPACITY DURING THE ENTIRE APFO APPROVAL PERIOD."<sup>1</sup>

**§5. Effective Date & Transitional Provisions** - The provisions of this Ordinance shall become effective on April 27, 2007. This Ordinance shall apply to all developments that do not have, as the case may be, site plan approval, preliminary plan approval, MXD Phase III approval or PUD Phase III approval as of the effective date of this Ordinance. This Ordinance only amends the text of §1-20-13(A) as enacted by Ordinance #06-08-404, and does not affect any other terms or provisions of Ordinance #06-08-404.

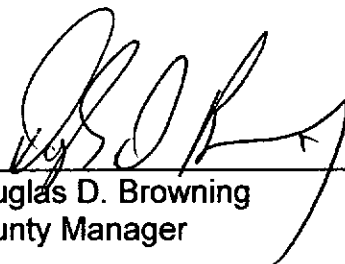
**§6.** This Ordinance shall remain in full force and effect so long as Ordinance #06-08-404 remains in full force and effect.

The undersigned hereby certifies that the Board of County Commissioners of

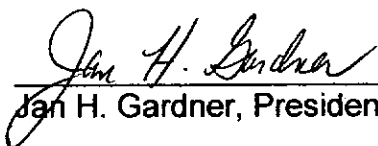
Frederick County, Maryland approved and adopted the foregoing Ordinance on the  
17th day of April, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF FREDERICK COUNTY, MARYLAND

  
\_\_\_\_\_  
Douglas D. Browning  
County Manager

By:

  
\_\_\_\_\_  
Jan H. Gardner, President

Kam  
4/18/07

<sup>1</sup> CAPITALS and/or underlining indicate matter added to existing APFO §1-20-13(A).